

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
SOUTHERN DIVISION**

KIMBERLY DEROSSETT,
Individually and on behalf of all others
similarly situated

Plaintiff,

v.

PATROWICZ HOLDINGS, LLC D/B/A
JONATHON C. PATROWICZ D.O., P.A.,
and SIGNATUREMD, INC.,

Defendants.

CLASS ACTION

Case No. 1:21-cv-01294-DKC

HEARING REQUESTED

**PLAINTIFF’S OPPOSITION TO DEFENDANT’S MOTION FOR SUMMARY
JUDGMENT AND CROSS-MOTION FOR SUMMARY JUDGMENT**¹

Plaintiff Kimberly Derossett, on behalf of herself and all others similarly situated, and pursuant to Rule 56 of the Federal Rules of Civil Procedure, respectfully requests for this Court to (1) deny Defendants Jonathan C. Patrowicz D.O., P.A.’s and Signature MD, Inc.’s Motion for Summary Judgment, [DE 32], and (2) grant summary judgment in favor of Plaintiff and the Class members with respect to their claims under the Telephone Consumer Protection Act, 47 U.S.C. §§ 227, *et seq.* There are no genuine disputes over any material facts regarding Plaintiff’s and the

¹ To avoid violation of the one-way intervention rule, Plaintiff respectfully requests for this Court to enter an order on Plaintiff’s Motion for Class Certification before ruling on Plaintiff’s Cross-Motion for Summary Judgment. *See London v. Wal-Mart Stores, Inc.*, 340 F.3d 1246, 1252 (11th Cir. 2003) (quoting *Am. Pipe & Constr. Co. v. Utah*, 414 U.S. 538, 547 (1974)) (“‘One-way intervention’ occurs when the potential members of a class action are allowed to ‘await . . . final judgment on the merits in order to determine whether participation [in the class] would be favorable to their interests.’”).

Class members' TCPA claims against Defendants, and Defendants have failed to show that they complied with the requirements of the statute. Plaintiff's opposition and cross-motion are based upon the concurrently filed memorandum and its attached exhibits, matters upon which this Court may take judicial notice, the oral argument of counsel, pleadings already on file with the Court, and all other evidence that may be presented at a hearing on this Motion.

Date: January 28, 2022

Respectfully Submitted,

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<p>HIRALDO P.A. <u>/s/ Manuel S. Hiraldo</u> Manuel S. Hiraldo, Esq. Florida Bar No. 030380 401 E. Las Olas Blvd., Suite 1400 Fort Lauderdale, FL 33301 t. 954-400-4713 e. mhiraldo@hiraldolaw.com <i>Pro Hac Vice</i></p>	

Attorneys for Plaintiff and the Proposed Class